

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

THIS DOCUMENT RELATES TO:

*The County of Summit, Ohio, et al. v. Purdue
Pharma L.P., et al.*

Case No. 18-op-45090

*The County of Cuyahoga, Ohio, et al. v.
Purdue Pharma L.P., et al.*

Case No. 1:18-op-45004

MDL No. 2804

Case No. 17-md-2804

Judge Dan Aaron Polster

**PHARMACY DEFENDANTS' MOTION FOR LEAVE TO FILE SURREPLY IN
OPPOSITION TO TRACK ONE PLAINTIFFS' MOTION TO AMEND**

Pharmacy Defendants¹ hereby seek leave to file a two-page surreply in opposition to the Track One Plaintiffs' motion for leave to amend the Track One complaints to add dispensing claims. Plaintiffs' reply, which is longer than their opening brief, raises new issues—including, without limitation, an argument that CMO 1 did not apply to all claims—that had not been raised before and to which Pharmacy Defendants have a right to respond. *See Eldridge v. Cardif Life Ins. Co.*, 266 F.R.D. 173, 175 (N.D. Ohio 2010) (granting leave to file surreply). The surreply that Pharmacy Defendants seek leave to file is attached as Exhibit A.

¹ This submission is made by CVS, Rite Aid, Walgreens, Walmart, Discount Drug Mart, and HBC (the "Pharmacy Defendants").

Date: November 15, 2019

Respectfully submitted,

/s/ Eric R. Delinsky

Eric R. Delinsky
Alexandra W. Miller
ZUCKERMAN SPAEDER LLP
1800 M Street, NW
Suite 1000
Washington, DC 20036
Phone: (202) 778-1800
Fax: (202) 822-8106
E-mail: edelinsky@zuckerman.com
E-mail: smiller@zuckerman.com

*Counsel for CVS Rx Services, Inc. and CVS
Indiana, L.L.C.*

/s/ Kelly A. Moore (consent)

Kelly A. Moore
MORGAN, LEWIS & BOCKIUS LLP
101 Park Avenue
New York, NY 10178
Phone: (212) 309-6612
Fax: (212) 309-6001
E-mail: kelly.moore@morganlewis.com

Elisa P. McEnroe
MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103
Phone: (215) 963-5917
Fax: (215) 963-5001
E-mail: elisa.mcenroe@morganlewis.com

*Counsel for Rite Aid of Maryland, Inc., d/b/a
Rite Aid Mid-Atlantic Customer Support
Center*

/s/ Kaspar Stoffelmayr (consent)

Kaspar Stoffelmayr
BARTLIT BECK LLP
54 West Hubbard Street, Suite 300
Chicago, IL 60654
Phone: (312) 494-4400
Fax: (312) 494-4440
E-mail: kaspar.stoffelmayr@bartlit-beck.com

*Counsel for Walgreen Co. and Walgreen
Eastern Co.*

/s/ Tina M. Tabacchi (consent)

Tina M. Tabacchi
Tara A. Fumerton
JONES DAY
77 West Wacker
Chicago, IL 60601
Phone: (312) 269-4335
Fax: (312) 782-8585
E-mail: tfumerton@jonesday.com
E-mail: tmtabacchi@jonesday.com

Counsel for Walmart Inc.

/s/ Timothy D. Johnson (consent)

Timothy D. Johnson
Gregory E. O'Brien
CAVITCH FAMULO & DURKIN,
CO. LPA
Twentieth Floor
1300 East Ninth Street
Cleveland, OH 44114
Phone: (216) 621-7860
Fax: (216) 621-3415
Email: tjohnson@cavitch.com
Email: gobrien@cavitch.com

Counsel for Discount Drug Mart, Inc.

/s/ Robert M. Barnes (consent)

Robert M. Barnes

Joshua A. Kobrin

MARCUS & SHAPIRA LLP

35th Floor, One Oxford Center

301 Grant Street

Pittsburgh, PA 15219

Phone: (412) 471-3490

Fax: (412) 391-8758

E-mail: rbarnes@marcus-shapira.com

E-mail: kobrin@marcus-shapira.com

Counsel for HBC Service Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 15, 2019, the foregoing was filed using the Court's CM/ECF filing system and will be served via the Court's CM/ECF filing system on all attorneys of record.

/s/ Eric R. Delinsky
Eric R. Delinsky

EXHIBIT A